

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO.897 OF 2000

(Through Jail)

Parshuram @ Parshappa Gangaram
Shivsharan. ...

... Appellant
(Orig. Accused)

Versus

The State of Maharashtra. ... Respondent

Shri A.G. Toraskar, Advocate Appointed for
Appellant-Accused.

Mrs.U.V. Kejriwal, APP for State.

CORAM : V.G. PALSHIKAR &
ANOOP V. MOHTA, JJ.
DATED : 5th October 2004

ORAL JUDGMENT : (Per V.G. Palshikar, J.)

1. Being aggrieved by the judgment and order of conviction dated 7th April 1999 passed by the IXth Additional Sessions Judge, Pune, in Sessions Case No.444 of 1998, the Appellant (original accused) has preferred this Appeal on the grounds mentioned in the Memo of Appeal as also the arguments advanced by the learned Advocate for the Appellant before us.

2. We have, with the assistance of the appointed Advocate and the Additional Public

Prosecutor, scrutinised the entire record and have re-appreciated the evidence on record.

3. The prosecution story stated briefly is that the accused and the victim were husband and wife. The accused was addicted to alcohol and used to ill-treat his wife. On 5th April 1998 around 2 P.M., there was a quarrel between the accused and the victim. The accused poured kerosene and put her on fire, as a result of which she received burn injuries and was admitted to the hospital where she stated to the Police that she was burnt by her husband. Therefore, her husband was arrested and the investigation was taken. On completion of the investigation, the accused was charged under Section 302 of the Indian Penal Code for intentionally causing homicidal death of the victim. The prosecution has examined four witnesses to prove the case of the prosecution that the accused was guilty of the murder.

4. P.W.1 - Surendra Vaijnath Jadhav is a Police Officer, who, on receipt of the telephonic message about the burnt case in the hospital, went to the hospital and saw the patient. He inquired with one Dr.Karve, who was on duty, regarding the condition of the patient and was told by the said doctor that the patient was in a fit condition to

give the statement. The doctor had examined the patient in presence of the witness P.W.1. P.W.1 then apprised the victim of his intention to note down her statement and on her consent to do so, proceeded to record the statement. He has proved the statement, which is Exhibit-10. This witness has proved, therefore, that the accused was the person who, according to the victim, poured kerosene on her body and put her on fire. This witness said that he heard the victim. He proved Exhibit-10. There is thus, one set of evidence that there is oral testimony of P.W.1 and Exhibit-10, which proves that it was the accused who put his wife on fire.

5. P.W.2 is Dr.A.S. Karve. Being a doctor he was present on both the occasions i.e. first when the victim's statement was recorded and the second when the Special Executive Magistrate recorded her dying declaration. He has very clearly and in unequivocal terms deposed on both the occasions that the victim was fully conscious and in fit mental condition to give her statement. He has deposed her condition being good on both the occasions. He, however, said that on both the occasions it was the accused who set her on fire. He has proved the dying declaration.

6. P.W.3 - U.D. Marane is the officer who recorded the second dying declaration. At the time of recording it, Dr.Karve-P.W.2 was present. We have, therefore, three witness who heard the victim saying that she was burnt by her husband. We have two documents executed immediately on utterances by the wife-victim as a contemporary record of what was deposed by the victim. Thus, there is ample oral and documentary evidence on record to prove that the accused was the person who was responsible for the homicidal death of his wife and it was intentional and, therefore, the learned Trial Judge was right in convicting the Appellant (original accused). We see no reason to interfere with the findings recorded by the learned Judge.

7. In the result, we dismiss the Appeal and confirm the judgment and order dated 7th April 1999 passed by the IXth Additional Sessions Judge, Pune.

8. Fees of the Advocate quantified at Rs.750/-.

(V.G. PALSHIKAR, J.)

(ANOO P V. MOHTA, J.)